

## SENATE BILL No. 302

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 25-26-13.

**Synopsis:** Pharmacy prescription drug pricing report. Requires a pharmacy annually to report specified pricing information to the pharmacy board. Requires the pharmacy board to: (1) review the reports; (2) keep the reports confidential; and (3) prepare a summary of the reports for the legislative council and the chairperson and vice chairperson of the health finance commission.

**Effective:** July 1, 2009.

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**Miller**

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January 7, 2009, read first time and referred to Committee on Health and Provider Services.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## SENATE BILL No. 302

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 25-26-13-4, AS AMENDED BY P.L.204-2005,  
2       SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2009]: Sec. 4. (a) The board may:

4           (1) promulgate rules and regulations under IC 4-22-2 for  
5           implementing and enforcing this chapter;

6           (2) establish requirements and tests to determine the moral,  
7           physical, intellectual, educational, scientific, technical, and  
8           professional qualifications for applicants for pharmacists'  
9           licenses;

10          (3) refuse to issue, deny, suspend, or revoke a license or permit or  
11          place on probation or fine any licensee or permittee under this  
12          chapter;

13          (4) regulate the sale of drugs and devices in the state of Indiana;

14          (5) impound, embargo, confiscate, or otherwise prevent from  
15          disposition any drugs, medicines, chemicals, poisons, or devices  
16          which by inspection are deemed unfit for use or would be  
17          dangerous to the health and welfare of the citizens of the state of



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Indiana; the board shall follow those embargo procedures found in IC 16-42-1-18 through IC 16-42-1-31, and persons may not refuse to permit or otherwise prevent members of the board or their representatives from entering such places and making such inspections;

(6) prescribe minimum standards with respect to physical characteristics of pharmacies, as may be necessary to the maintenance of professional surroundings and to the protection of the safety and welfare of the public;

(7) subject to IC 25-1-7, investigate complaints, subpoena witnesses, schedule and conduct hearings on behalf of the public interest on any matter under the jurisdiction of the board;

(8) prescribe the time, place, method, manner, scope, and subjects of licensing examinations which shall be given at least twice annually; and

(9) perform such other duties and functions and exercise such other powers as may be necessary to implement and enforce this chapter.

(b) The board shall adopt rules under IC 4-22-2 for the following:

(1) Establishing standards for the competent practice of pharmacy.

(2) Establishing the standards for a pharmacist to counsel individuals regarding the proper use of drugs.

(3) Establishing standards and procedures before January 1, 2006, to ensure that a pharmacist:

(A) has entered into a contract that accepts the return of expired drugs with; or

(B) is subject to a policy that accepts the return of expired drugs of;

a wholesaler, manufacturer, or agent of a wholesaler or manufacturer concerning the return by the pharmacist to the wholesaler, the manufacturer, or the agent of expired legend drugs or controlled drugs. In determining the standards and procedures, the board may not interfere with negotiated terms related to cost, expenses, or reimbursement charges contained in contracts between parties, but may consider what is a reasonable quantity of a drug to be purchased by a pharmacy. The standards and procedures do not apply to vaccines that prevent influenza, medicine used for the treatment of malignant hyperthermia, and other drugs determined by the board to not be subject to a return policy. An agent of a wholesaler or manufacturer must be appointed in writing and have policies, personnel, and facilities

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to handle properly returns of expired legend drugs and controlled substances.

**(4) Establishing procedures for a pharmacy to submit the price report required by section 24.5 of this chapter and to keep the information in the report confidential.**

(c) The board may grant or deny a temporary variance to a rule it has adopted if:

- (1) the board has adopted rules which set forth the procedures and standards governing the grant or denial of a temporary variance; and
- (2) the board sets forth in writing the reasons for a grant or denial of a temporary variance.

(d) The board shall adopt rules and procedures, in consultation with the medical licensing board, concerning the electronic transmission of prescriptions. The rules adopted under this subsection must address the following:

- (1) Privacy protection for the practitioner and the practitioner's patient.
- (2) Security of the electronic transmission.
- (3) A process for approving electronic data intermediaries for the electronic transmission of prescriptions.
- (4) Use of a practitioner's United States Drug Enforcement Agency registration number.
- (5) Protection of the practitioner from identity theft or fraudulent use of the practitioner's prescribing authority.

SECTION 2. IC 25-26-13-24.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 24.5. (a) A pharmacy that is issued a permit under this chapter shall report the following pricing information to the board not later than June 1 of each year concerning a prescription drug sold by the pharmacy:**

- (1) The wholesale price.**
- (2) The retail price.**
- (3) All third party payor negotiated prices.**

**(b) The board shall do the following:**

- (1) Review the report submitted in subsection (a) and keep the information submitted confidential except for in preparing the summary required under subdivision (2).**
- (2) Prepare a summary of the reports and submit the summary in electronic format under IC 5-14-6 to:**
  - (A) the legislative council; and**
  - (B) the chairperson and vice chairperson of the health**

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- 1 **finance commission.**
- 2 **(c) The summary of the reports required under subsection (b)(2)**
- 3 **shall be kept confidential.**

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